

# Disciplinary and Other FINRA Actions

## Firm Fined, Individual Sanctioned

**James I. Black & Company (CRD #1249, Lakeland, Florida) and Jess Gove Tucker III (CRD #450126, Registered Principal, Lakeland, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$125,000, jointly and severally with Tucker, and required to have all of its personnel register for 16 hours of anti-money laundering (AML) training within 60 days of issuance of this AWC. Tucker was suspended from association with any FINRA member in any principal or supervisory capacity for three months. Tucker's fine must be paid either immediately upon reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, the firm and Tucker consented to the described sanctions and to the entry of findings that the firm, acting through Tucker, failed to adequately implement an AML compliance program, in that it failed to adequately detect, investigate and report potentially suspicious activity. The findings stated that the firm, acting through Tucker, failed to conduct sufficient independent tests of its AML program on an annual basis and conduct annual AML training for its personnel.

Tucker's suspension in any principal or supervisory capacity is in effect from June 2, 2008, through September 1, 2008. **(FINRA Case #2006007424601)**

## Firms Fined

**AIS Financial, Inc. (CRD #41462, Irvine, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$11,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to preserve all of the firm's business-related electronic communications, in that some associated persons frequently used personal email accounts to conduct firm business. The findings stated that some emails were copied or forwarded to an employee with a firm-sponsored account and were, therefore, preserved—but the remaining emails were not. The findings also stated that the firm's written supervisory procedures prohibited firm personnel from sending the firm's business-related electronic communications from a home computer and/or using non-company sponsored electronic communications, but failed to enforce the procedures with respect to the employees who frequently used personal email accounts. **(FINRA Case #20070085026-01)**

## Reported for July 2008

FINRA has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

**American Funds Distributors, Inc. (CRD #6247, Los Angeles, California)** was censured and fined \$5,000,000. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm, as the principal underwriter and distributor of a family of mutual funds, requested and arranged for its parent company to direct a specific amount or percentage of brokerage commissions to other FINRA member firms conditioned upon their sales of the firm's mutual funds.

This decision has been appealed to the Securities and Exchange Commission (SEC), and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #CE320050003)**

**Cowen and Company, LLC (CRD #7616, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures concerning market order protection and trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported the first leg of "riskless" principal transactions in designated securities to the FINRA/NASDAQ Trade Reporting Facility (TRF) because it incorrectly designated the capacity of the transactions as riskless or agent; and incorrectly reported the offsetting, "riskless" portion of "riskless" principal transactions in designated securities to the TRF because it incorrectly designated the capacity of the transactions as principal. The findings stated that the firm failed to report last sale reports of transactions in designated securities to the TRF, and incorrectly denoted a long sale as short exempt on its trading ledger. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning market order protection and trade reporting. **(FINRA Case #20060061841-01)**

**Crowell, Weedon & Co. (CRD #193, Los Angeles, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to promptly file Submissions of Required Information Pertaining to Members, Member Organizations, Allied Members, Registered and Non-Registered Employees (Forms RE-3) with the New York Stock Exchange (NYSE) in connection with the misappropriation of funds by firm employees. The findings stated that the firm failed to implement a business continuity plan that addressed procedures relating to an emergency or significant business disruption. The findings also stated that the firm failed to make and keep current order tickets identifying who entered or accepted the orders on the customer's behalf of and the receipt time of the orders. **(FINRA Cases #2007009457601)**

**Donnelly Penman & Partners (CRD #104448, Grosse Pointe, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to conduct and evidence an independent test of its AML program despite the requirement that it monitor compliance with the requirements of the Bank Secrecy Act and the regulations promulgated thereunder and despite prior notifications from FINRA, which included a

Letter of Caution. The findings stated that the firm received checks totaling \$825,843.75 from public customers, placed the checks in a locked drawer rather than in a Special Reserve Bank Account for the Exclusive Benefit of Customers and failed to perform any reserve calculations regarding the checks that the firm held. The findings also stated that the firm failed to abide by the terms of its membership agreement with FINRA, failed to file a request to change its agreement with FINRA 30 days prior to making a material change in its business operations and engaged in business activities without maintaining the required minimum net capital. The findings also included that the firm failed to maintain a checks received and dispersed blotter in violation of SEC Rule 17a-3. **(FINRA Case #2007007331401)**

**EKN Financial Services Inc. (CRD #113525, Woodbury, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$80,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to meet disclosure requirements for research reports; failed to include the required disclosures on the front page of reports in a prominent, clear and comprehensive manner; failed to provide a valuation method to determine the price target and a disclosure of risks that impeded achievement of price targets; failed to maintain records of public appearances by research analysts; failed to balance favorable discussions with disclosures of associated risks; failed to enforce its procedures for reviewing duplicate account statements for the accounts of its brokers, including research analysts, to detect an analyst's purchase of restricted stock; and failed to conduct an annual attestation that the firm had adopted and implemented its research analyst rule procedures.

The findings stated that the firm maintained inaccurate balances in its general ledger and trial balance, and filed inaccurate Financial and Operational Combined Uniform Single (FOCUS) reports. The findings also stated that the firm conducted a securities business while failing to maintain the required minimum net capital, and failed to timely file a FOCUS Part IIA report and an annual audit. The findings also included that the firm failed to amend or file Uniform Applications for Securities Industry Registration or Transfer (Forms U4) and Uniform Termination Notices for Securities Industry Registry (Forms U5), and filed Forms U5 late.

FINRA found that the firm failed to report customer complaints, employee suspensions and an arbitration, and filed reports late or inaccurately pursuant to the NASD Rule 3070 reporting system. FINRA also found that the firm failed to maintain or preserve order tickets and confirmations in connection with equity, corporate debt, short sales and mutual fund transactions. In addition, FINRA determined that the firm failed to preserve and maintain time of order receipt, solicitation status, associated registered representative and/or customer name, and execution price on order tickets for municipal, government security or corporate debt transactions. Moreover, FINRA found that the firm failed to preserve and maintain, in an accessible place, written incoming and outgoing correspondence. Furthermore, FINRA found that the firm indicated on confirmations that it was a market maker in a security when it was not. FINRA also found that the firm permitted \$7,312.91 in excessive commissions to be charged in equity retail transactions, which the firm has since refunded to the affected customers. **(FINRA Case #ELI2005000604)**

**Ferris, Baker Watts, Incorporated (CRD #285, Washington, DC)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$14,000 and required to revise its written supervisory procedures regarding SEC Rule 602 of Regulation NMS (the “one-percent rule”), NASD Rule 2320(g) (the “three-quote rule”), the prohibition against anti-intimidation/coordination, transaction reporting, the handling and transaction reporting of sale transactions, and books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported the second leg of riskless principal transactions in a designated security to the NASDAQ National Market Center (NMC) because it incorrectly designated the capacity of the transactions as principal; incorrectly reported riskless principal transactions in eligible securities to the NMC because it incorrectly reported the transactions as riskless principal when only a portion of the transactions was riskless; and incorrectly reported a riskless principal transaction in an eligible security to the NMC because it incorrectly reported the transaction as principal when a portion of the transaction was riskless.

The findings stated that the firm, when it acted as principal for its own account, failed to provide written notification disclosing to its customer that it was a market maker in the security; and failed to provide written notification disclosing to its customer that the transaction was executed at an average price. The findings also stated that the firm failed to show the correct price on the ledger itemizing purchases or sales of securities, and failed to show the terms and conditions on brokerage order memoranda. The findings also included that the firm made a report available on the covered orders in national market system securities that it received for execution from any person that included incorrect and incomplete SEC Rule 605 report information. FINRA found that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning SEC Rule 602 of Regulation NMS, NASD Rule 2320(g), the prohibition against anti-intimidation/ coordination, transaction reporting, the handling and transaction reporting of sale transactions, and books and records. **(FINRA Case #20050004861-01)**

**Fixed Income Securities, LP nka Advisors Asset Management, Inc. (CRD #46727, Monument, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000, ordered to pay \$1,038.64, plus interest, in restitution to customers, and required to revise its written supervisory procedures concerning fair prices and commissions. Satisfactory proof of restitution or of reasonable and documented efforts undertaken to effect restitution was to be provided to FINRA no later than 120 days after acceptance of the AWC. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased municipal securities for its own account from customers and/or sold municipal securities for its own account to customers at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transactions, and of any securities exchanged or traded in connection with the transactions, the expense involved in effecting the transactions, the fact that the

broker, dealer or municipal securities dealer is entitled to a profit and the total dollar amount of the transactions. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning fair prices and commissions. **(FINRA Case #20050001658-01)**

**HSBC Securities (USA), Inc. (CRD #19585, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$200,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that customers who maintained escrow accounts with the firm's bank affiliate were charged commissions—which were higher than the commissions charged in the past, and, in certain instances, higher than the industry standard—for fixed income securities trades the firm executed on the customers' behalf. The findings stated that the firm failed to take adequate steps to assess the fairness of these commissions and the higher commission charges were premised on the provision of a former registered representative's additional services to the customers when, in fact, he did not provide such services. The findings also stated that the firm lacked adequate written guidelines for markups and commissions on trades for fixed income products, and failed to establish and maintain adequate procedures to monitor the appropriateness of commissions charged to these customers in that the firm: a) failed to establish adequate written guidelines for markups and commissions on fixed income products; b) failed to give adequate guidance as to what factors should be considered in determining what is a fair markup or commission on fixed income products; c) failed to include trades executed for the customers in branch examination reviews; and d) failed to establish reasonable procedures for monitoring fixed income security markups and commissions. **(FINRA Case # 2007009471401)**

**KeyBanc Capital Markets, Inc. (CRD #566, Cleveland, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$30,000 and ordered to pay \$8,378.30, plus interest, in restitution to customers. Satisfactory proof of payment of the restitution, or of reasonable and documented efforts undertaken to effect restitution, was to be provided to FINRA no later than 120 days after acceptance of the AWC. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold or bought corporate bonds to or from customers and failed to sell or buy the bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm failed to enforce its written supervisory procedures that specified that no exceptions from its markup/markdown schedule may be made without prior approval of the senior trading manager or sales manager, and that the basis for a markup/markdown in excess of the firm's internal schedule should be demonstrated and documented. **(FINRA Case #20060042695-01)**

**Merrill Lynch, Pierce, Fenner & Smith Incorporated, (CRD # 7691, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it distributed an informational brochure to a national telecommunications provider's employees detailing its handling of the company's employee stock option plan, but failed to provide a sound basis for evaluating the facts with regard to employing the exercise and hold strategy on margin by omitting disclosure of the associated risks. **(FINRA Case #2008013132401)**

**Morgan Stanley & Co. Incorporated (CRD #8209, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$425,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit, or cause to be submitted, the fingerprints of certain permanent employees, temporary workers, interns and consultants, and failed to investigate the individuals' previous records. The findings stated that the firm failed to provide for, establish and maintain adequate procedures to ensure compliance with NASD rules and federal securities laws relating to the employment of certain permanent employees, temporary workers, interns and consultants who may have been subject to statutory disqualification. **(FINRA Case #2007009428301)**

**Next Financial Group, Inc. (CRD #46214, Houston, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report statistical and summary information regarding customer complaints to FINRA. The findings stated that the firm failed to timely file Form U4 and Form U5 amendments with FINRA to reflect customer complaints against registered representatives. **(FINRA Case #2007007165602)**

**Penson Financial Services, Inc. (CRD #25866, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to the Order Audit Trail System (OATS) on 77 business days. The findings stated that the firm failed to report all of its Reportable Order Events (ROEs) it was required to report on these days. **(FINRA Case #20060066641-01)**

**UBS Securities LLC (CRD #7654, Stamford, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that as an Intermarket Trading System/Computer Assisted Execution System (ITS/CAES) market maker, it purchased or sold ITS/CAES securities, whether in a principal capacity or as an agent, at a price lower than the bid or higher than the offer displayed from an ITS participant exchange or ITS/CAES market maker. **(FINRA Case #20060047246-01)**



## Individuals Barred or Suspended

**Jeffrey Steven Adler (CRD #1102075, Registered Representative, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Adler's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Adler consented to the described sanctions and to the entry of findings that he settled a customer complaint without notifying his current or previous member firm.

The suspension in any capacity was in effect from June 2, 2008, through June 13, 2008. (FINRA Case #2007009020301)

**Marcelo L. Assis (CRD #5137579, Associated Person, Pickerington, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Assis consented to the described sanction and to the entry of findings that he used information obtained from a public customer's driver's license to open a bank account under the customer's name without the customer's consent and knowledge, and signed a bank signature card that would allow him to make deposits into the account and also obtained a debit card for the account. The findings stated that Assis took a \$749 money order made out to a corporate customer to fund the bank account he secretly opened and controlled, and used the debit card for the account to pay for personal items for himself and a friend. The findings stated that Assis also withdrew some of the money from the account through automatic teller machine (ATM) transactions for personal expenses. (FINRA Case #2006006758901)

**Philip James Atteberry (CRD #1243495, Registered Principal, BatonRouge, Louisiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Atteberry's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Atteberry consented to the described sanctions and to the entry of findings that he exercised discretion in public customer accounts without written discretionary authority and without his member firm's acceptance of the accounts as discretionary.

The suspension in any capacity is in effect from June 2, 2008, through August 30, 2008. (FINRA Case #2007009205701)

**Frederick Ingwert Braren Jr. (CRD #4915850, Registered Representative, Ponte Vedra Beach, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Braren's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Braren consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from May 19, 2008, through May 18, 2009. (FINRA Case #2007008605601)

**Glenn Ferrell Bruce Jr. (CRD #4598002, Registered Representative, Dunn, North Carolina)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the allegations, Bruce consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, without prompt written notice to his member firm.

The suspension in any capacity is in effect from June 16, 2008, through July 15, 2008. (FINRA Case #2007009269801)

**Steven Ernest Bryant (CRD #1620470, Registered Principal, Pompano Beach, Florida)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Bryant operated an unregistered securities dealer in violation of Section 15(a)(1) of the Securities Exchange Act. The findings stated that Bryant failed to respond to a FINRA request for information and documents. (FINRA Case #E072005001101)

**William Brian Butler (CRD #1554307, Registered Representative, Baldwin, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Butler's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Butler consented to the described sanctions and to the entry of findings that he engaged in stock loans and borrows with a family member who was a trader in the securities lending department at another member firm. The findings stated that the trades were often below the rates of other transactions in the same securities Butler made on the same day at his member firm, and he sometimes agreed to terms less favorable for the firm than those originally offered by the other member firm. The findings also stated that Butler entered into conduit, or what the firm described as "put-through," securities lending transactions with the other member firm, although it was not necessary to do so. The findings also included that Butler gave the family member inappropriate access to his firm's secondary "push list," which is the list of securities the firm needed to borrow or lend after its initial list of needs was met. FINRA found that Butler sent the "push list" to the family member before he distributed it more broadly to the market and his other counterparties.



The suspension in any capacity is in effect from June 16, 2008, through December 15, 2008. (FINRA Case #2007009409901)

**Benjamin Allan Centeno (CRD # 4213394, Registered Representative, Chino, California) and Jeffrey Ken Santohigashi (CRD # 4212326, Registered Representative, San Antonio, Texas)** submitted Offers of Settlement in which Centeno was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days, Santohigashi was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 days. Without admitting or denying the allegations, Centeno and Santohigashi consented to the described sanctions and to the entry of findings that they sold unregistered shares of a thinly traded penny stock quoted on the Pink Sheets on public customers' behalf, and failed to determine whether the securities were registered or were going to be sold in transactions exempt from the registration requirements of Section 5 of the Securities Act of 1933.

Centeno's suspension in any capacity was in effect from June 2, 2008, through July 1, 2008. Santohigashi's suspension in any capacity was in effect from June 2, 2008, through June 21, 2008. (FINRA Case #2005000075703)

**Clare M. Cranford (CRD # 5097942, Associated Person, Atascadero, California)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Cranford's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Cranford consented to the described sanctions and to the entry of findings that she submitted an application for long-term care insurance to an insurance company that public customers signed with the understanding that they had not committed to any policy and no policy would be activated unless they later submitted payment for the first month's premium. The findings stated that Cranford submitted the application with a check for the first month's premiums for each policy, thereby effecting the purchase of insurance policies for the customers without their knowledge, authorization or consent. The findings also stated that Cranford signed the customers' names on policy delivery receipts pertaining to the policies without the customers' knowledge, authorization or consent, and then submitted the forged receipts to the insurance company.

The suspension in any capacity is in effect from June 2, 2008, through June 1, 2010. (FINRA Case #20070081750-01)

**Reynold Arthur Currier Jr. (CRD #1307615, Registered Representative, Southport, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Currier's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Currier consented to the described sanctions and to

the entry of findings that he signed a public customer's name to account documents without the customer's written authorization and contrary to his member firm's procedures prohibiting representatives from signing customer's names, regardless of whether the customers had given their authorization.

The suspension in any capacity is in effect from June 2, 2008, through December 1, 2008. **(FINRA Case #2006006835501)**

**Richard C. Dergance Jr. (CRD #4143798, Registered Representative, Las Vegas, Nevada)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for four months and ordered to disgorge \$18,541, plus interest, in commissions as partial restitution to public customers. The fine and restitution must be paid either immediately upon Dergance's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Dergance consented to the described sanctions and to the entry of findings that he participated in private securities transactions, for compensation, without prior written notice to his member firm.

The suspension in any capacity is in effect from May 19, 2008, through September 18, 2008. **(FINRA Case #20070081647-01)**

**Brent Keith Deviney (CRD #2131402, Registered Representative, West Palm Beach, Florida)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months, with credit to be given for three months served, and the \$5,000 fine paid in fulfillment of sanctions imposed by the State of Florida. The sanctions were based on findings that Deviney forged public customer signatures on Change of Dealer Forms and submitted the forged forms to his member firm and a non-member insurance company.

The suspension in any capacity is in effect from May 19, 2008, through August 18, 2008. **(FINRA Case #2006004992601)**

**Donald William Dormeier (CRD #70557, Registered Supervisor, Fort Wayne, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Dormeier's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Dormeier consented to the described sanctions and to the entry of findings that he exercised discretion in public customer accounts without written authorization to do so.

The suspension in any capacity was in effect from June 16, 2008, through June 27, 2008. **(FINRA Case #2007009425101)**

**Morton Bruce Erenstein (CRD #201845, Registered Representative, Boca Raton, Florida)** was suspended from association with any FINRA member in any capacity for one year. The SEC affirmed the NAC's decision following appeal of an OHO decision. The sanction was based on findings that Erenstein failed to respond to a question during a FINRA on-the-record interview and failed to timely respond to a FINRA request for information.

The suspension in any capacity is in effect from January 22, 2008, through January 21, 2009. This decision has been appealed to the U.S. Court of Appeals, and the sanction is in effect at Erenstein's request. **(FINRA Case #C9B20040080)**

**John Danis Garcia (CRD #4621646, Registered Representative, Bronx, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Garcia consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview. **(FINRA Case #2006005957301)**

**Kevin Howard Gavigan (CRD #2674135, Registered Representative, Millville, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gavigan consented to the described sanction and to the entry of findings that he wrote \$51,400 worth of checks from a sailing club's bank account payable to "cash," cashed the checks and converted the proceeds to his own use and benefit without the club's authorization or consent. The findings stated that Gavigan willfully failed to amend his Form U4 to disclose material information. **(FINRA Case #2007011492501)**

**Janette Olga Glassing (CRD #5133622, Associated Person, Cottage Grove, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Glassing consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests for documents and information. **(FINRA Case #20070104356-01)**

**Robert Frederick Glessner Jr. (CRD #2354148, Registered Representative, Mansfield, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Glessner consented to the described sanction and to the entry of findings that he wrote checks to himself totaling \$38,000 from an association for which he was the treasurer, used the funds for some purpose other than for the association's benefit and without the knowledge or consent of the association or its authorized representatives. The findings stated that Glessner failed to respond to FINRA requests for documents and information. **(FINRA Case #2007008425501)**

**Alexander Goldstein (CRD #4373969, Registered Representative, Marlboro, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Goldstein consented to the described sanction and to the entry of findings that he intentionally effected paired security transactions between his personal brokerage account and brokerage accounts he traded on behalf of a foreign-owned financial institution (the bank) and knowingly failed to disclose to the bank that he

was the party on the other side of the transactions. The findings stated that Goldstein realized trading profits of at least \$25,667.72 from the transactions, and the bank incurred a loss. The findings also stated that by the use of means or instrumentalities of interstate commerce, or of the mails, Goldstein intentionally and recklessly effected transactions in, and induced the purchase and sale of, NASDAQ securities by means of deceptive, manipulative and other fraudulent devices or contrivances. **(FINRA Case #20070075515-01)**

**Scott Burtenshaw Gordon (CRD #2852211, Registered Principal, Holladay, Utah)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gordon consented to the described sanction and to the entry of findings that he engaged in private securities transactions, for compensation, and failed to provide prior written notice to his member firm describing the proposed transactions and his role therein, and failed to obtain his member firm's written approval. The findings stated that Gordon received \$67,500 from public customers to invest but, instead, used the money to fund expenses incurred in connection with the general operations of his approved outside business activity company. **(FINRA Case #2006006584301)**

**Kevin Guzman (CRD #4497415, Registered Principal, New York, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Guzman recommended and effected unsuitable and excessive transactions in public customers' account and also churned the account, demonstrating that his excessive trading was to derive a profit at the customers' expense. The findings stated that Guzman included false financial information and investment experience on the customers' account application documents, which the customers signed and Guzman submitted to his member firm. The findings also stated that Guzman made misrepresentations to public customers regarding their account balances to conceal their losses. **(FINRA Case #20050000720-02)**

**Vivian Vervle Gwin (CRD #4228943, Registered Representative, Bismarck, North Dakota)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gwin consented to the described sanction and to the entry of findings that she participated in private securities transactions, for compensation, without prior written notice to, and written approval from, her member firm. The findings stated that Gwin failed to appear for a FINRA on-the-record interview. **(FINRA Case #20060072975-01)**

**Andrew Walter Holtmeyer (CRD #1924765, Registered Principal, Dix Hills, New York)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the allegations, Holtmeyer consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension in any capacity was in effect from June 2, 2008, through June 27, 2008. **(FINRA Case #2007007959701)**

**Primitivo Andrade Iglesias (CRD # 1871845, Registered Principal, Locust Valley, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any principal capacity for two months. In light of Iglesias' financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Iglesias consented to the described sanction and to the entry of findings that he failed to reasonably supervise a registered representative with respect to the charging of commissions to public customers. The findings stated that Iglesias failed to take adequate steps to assess the fairness of these commissions or to ensure that the representative was providing the additional services he had represented. The findings also stated that Iglesias excluded these commissions from his review of the Daily Trade Blotter, and failed to ensure the representative was submitting Large Trade Approval forms for trades made on these customers' behalf.

The suspension in any principal capacity is in effect from June 2, 2008, through August 1, 2008. **(FINRA Case #2008013269401)**

**Sean Christopher Jordan (CRD #3052479, Registered Representative, Auburn Hills, Michigan)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Jordan's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. The sanctions were based on findings that Jordan failed to timely respond to FINRA requests for information.

The suspension in any capacity is in effect from June 2, 2008, through May 31, 2009. **(FINRA Case #2006005038102)**

**Hyung Suk Kim aka Tony Suk Kim (CRD #5022658, Registered Representative, North Hills, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Kim's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kim consented to the described sanctions and to the entry of findings that he signed a public customer's name on an electronic funds transfer authorization form to transfer funds from the customer's bank account to his brokerage account, without the customer's knowledge or consent, to expedite the transaction.

The suspension in any capacity is in effect from May 19, 2008, through July 17, 2008. **(FINRA Case #2007009351201)**

**Christopher Thomas Kline (CRD #1641746, Registered Representative, York, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$19,000, which includes disgorgement of \$11,500 in commissions received, ordered to pay \$6,000 in restitution to a public customer and suspended from association with any FINRA member in any capacity for six months. The fine and restitution must be paid either immediately upon Kline's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without

admitting or denying the findings, Kline consented to the described sanctions and to the entry of findings that he recommended and engaged in excessive and unsuitable trading in public customers' accounts. The findings stated that Kline exercised discretion in the customers' accounts without the customers' prior written authorization and his member firm's written acceptance of the accounts as discretionary.

The suspension in any capacity is in effect from May 19, 2008, through November 18, 2008. **(FINRA Case #2006005286102)**

**James R. Klosterman (CRD #865318, Registered Representative, Seattle, Washington)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Klosterman consented to the described sanctions and to the entry of findings that he exercised discretion in public customers' accounts without the customers' prior written authorization and without his member firm's acceptance of the accounts as discretionary.

The suspension in any capacity was in effect from June 2, 2008, through June 20, 2008. **(FINRA Case #2006006518401)**

**Gregg Edward Maguire (CRD #2723583, Registered Representative, Cathedral City, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five months. The fine must be paid either immediately upon Maguire's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Maguire consented to the described sanctions and to the entry of findings that he signed public customers' names on various investment-related forms without their knowledge, authorization or consent.

The suspension in any capacity is in effect from June 2, 2008, through November 1, 2008. **(FINRA Case #20070089983-01)**

**Michael Joseph Martella (CRD #1719329, Registered Representative, New York, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Martella failed to respond to FINRA requests to appear for an on-the-record interview. **(FINRA Case #2006003772301)**

**Sean Patrick Martin (CRD #4860100, Registered Representative, Albany, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Martin's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Martin consented to the described sanctions and to the entry of findings that he affixed a public customer's signature on an asset reallocation form by cutting and pasting it from another document, and submitted the form for processing without the customer's authorization or consent.



The suspension in any capacity was in effect from May 19, 2008, through June 17, 2008. (FINRA Case #2007011008801)

**Michael Harold McClellan (CRD #325497, Registered Principal, Bakersfield, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, McClellan consented to the described sanction and to the entry of findings that he was appointed trustee for trusts public customers' established and, without authorization, disbursed \$301,127.59 from the trusts' bank and money market accounts and a trust's brokerage account, and used the funds for his own benefit, thereby converting \$301,127.59 of the trusts' assets. (FINRA Case #2007009610101)

**Maura Ellen Mitchell (CRD #4736301, Registered Representative, Miami Beach, Florida)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Mitchell accessed her member firm's computer system and entered securities sales transactions in variable annuity sub-accounts for public customers and applied the proceeds of the sales to purchase different securities in their variable annuity policies, without their knowledge or consent. The findings stated that Mitchell provided false and misleading information and testimony to FINRA. (FINRA Case #2005003584601)

**Carolyn Ann Monahan (CRD #4963922, Registered Representative, Traverse City, Michigan)** submitted an Offer of Settlement in which she was fined \$2,500 and suspended from association with any FINRA member in any capacity for six months. In light of Monahan's financial status, a fine of \$2,500 has been imposed. The fine must be paid either immediately upon Monahan's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Monahan consented to the described sanctions and to the entry of findings that she engaged in outside business activities, for compensation, without prompt written notice to her member firm. The findings stated that Monahan failed to timely respond to FINRA requests for documents and information.

The suspension in any capacity is in effect from June 2, 2008, through December 1, 2008. (FINRA Case #2006006773501)

**Jason John Morawski (CRD #2451447, Registered Principal, Bayshore, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Morawski willfully failed to disclose material information on Forms U4 and failed to respond to FINRA requests for information. (FINRA Case #2005003382401)

**Frieda Mae Nettles (CRD #2598071, Associated Person, Apex, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Nettles consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests for documents and information. (FINRA Case #20070099550-01)

**Michael Scott Olson (CRD #3021448, Registered Principal, Oak Park, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in a principal capacity for nine months. Without admitting or denying the findings, Olson consented to the described sanctions and to the entry of findings that he failed to reasonably and properly supervise equity traders' pre-opening quoting and trading activity. The findings stated that as his member firm's chief compliance officer, Olson failed to establish and maintain a system to supervise his firm's equity traders' conduct that was reasonably designed to achieve compliance with applicable NASD and SEC rules, in that the firm did not have a supervisory system in place to review manipulative quoting and trading in the pre-opening market.

The suspension in a principal capacity is in effect from June 16, 2008, through March 15, 2009. **(FINRA Case #20050001741-03)**

**Anthony Gregory Palmer (CRD #2143341, Registered Principal, University Park, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. The fine must be paid either immediately upon Palmer's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Palmer consented to the described sanctions and to the entry of findings that, in connection with his financial services seminars, he used invitations and an informational brochure without his member firm's prior approval of a registered principal. The findings stated that the invitation failed to make proper disclosures regarding fees and how a guaranteed high rate of return was being calculated.

The suspension in any capacity was in effect from June 2, 2008, through June 20, 2008. **(FINRA Case #2006006298701)**

**Charles Thomas Popenoe (CRD #5449870, Associated Person, Reynoldsburg, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Popenoe consented to the described sanction and to the entry of findings that he took \$550 in cash lying on a counter at a bank and, without the bank's knowledge or consent, used the funds for his own benefit or for some benefit other than that of the bank. **(FINRA Case #2008012250201)**

**Robert Ramsey (CRD #4825175, Registered Representative, Blandon, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Ramsey's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ramsey consented to the described sanctions and to the entry of findings that he received \$19,770.84 from public customers to purchase a mutual fund, but neglected to process the transaction and failed to tell the customers or his member firm that he had not purchased the mutual fund.

The suspension in any capacity is in effect from May 19, 2008, through May 18, 2009. (FINRA Case #2007009269501)

**William Howard Roberts (CRD #833352, Registered Principal, Hummelstown, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for 30 days. Without admitting or denying the findings, Roberts consented to the described sanctions and to the entry of findings that he failed to take adequate action to supervise a registered representative that was reasonably designed to detect and prevent his excessive and unsuitable trading in public customer accounts.

The suspension in any principal capacity was in effect from June 2, 2008, through July 1, 2008. (FINRA Case #2006005286101)

**Paul Herschell Rundbaken (CRD #1742139, Registered Representative, Charleston, South Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Rundbaken consented to the described sanctions and to the entry of findings that he exercised discretion in a public customer's account without written discretionary authority and without his member firm's acceptance of the account as discretionary.

The suspension in any capacity was in effect from June 16, 2008, through June 27, 2008. (FINRA Case #2006006569201)

**Bernard Factora Santos (CRD #4838431, Associated Person, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Santos consented to the described sanction and to the entry of findings that he misappropriated a member firm's funds for his own use and benefit. The findings stated that Santos falsified dividend claims and supporting documentation from legitimate customers in order to effect wire transfers from a firm account established to pay dividends, without the firm's knowledge or authorization. The findings also stated that Santos initiated wire payments totaling \$523,000 made to accounts he controlled at different banks, based upon the falsified dividend claims. The findings also included that Santos failed to respond to a FINRA request for information. (FINRA Case #2007009411601)

**Martin Howard Scharf (CRD #803465, Registered Representative, Hurricane, West Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Scharf consented to the described sanction and to the entry of findings that he forged, or caused to be forged, public customers' names on various insurance documents and submitted the documents to his member firm for processing. (FINRA Case #2007008785901)

**Michael Hollis Stewart (CRD #4243807, Registered Representative, McHenry, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Stewart consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to give prompt written notice to his member firm.

The suspension in any capacity was in effect from June 2, 2008, through July 14, 2008. (FINRA Case #2006007225201)

**Thomas Edward Sullivan (CRD #4591223, Registered Representative, Coppell, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Sullivan consented to the described sanction and to the entry of findings that he participated in private securities transactions and failed to notify his member firms of his participation in the transactions. (FINRA Case #2006006995901)

**Aaron Donald Vallett (CRD #4421122, Registered Principal, Nashville, Tennessee)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, Vallett consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, without prompt written notice to his member firm. The findings stated that Vallett completed a firm questionnaire in which he represented that he was not engaged in outside employment or business activity. The findings also stated that Vallett signed a firm form acknowledging that firm employees were not permitted to sell equity-indexed annuities and were required to report past sales, despite his past sales of equity-indexed annuities.

The suspension in any capacity is in effect from June 16, 2008, through October 15, 2008. (FINRA Case #2006005754402)

**Josue Amaro Villarreal (CRD #4743080, Registered Representative, Dallas, Texas)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Villarreal consented to the described sanction and to the entry of findings that he converted to his own use and benefit \$6,083.05 received from insurance customers to pay for their policy premiums. The findings stated that Villarreal failed to respond to FINRA requests for information. (FINRA Case #2006006947101)

**Clifford Lee Weaver (CRD #2590623, Registered Principal, Ephrata, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Weaver consented to the described sanction and to the entry of findings that he entered materially false and/or inaccurate public customer information on firm documents, thereby causing his member firm to maintain false or inaccurate records. The findings stated that Weaver signed a customer's name on investment-related forms

without the customer's authorization or consent. The findings also stated that Weaver made a \$550 payment to the customer in settlement of her complaint without his member firm's knowledge. **(FINRA Case #2007011240801)**

**John David Webberly (CRD #4537337, Registered Principal, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and suspended from association with any FINRA member in any capacity for two years. In light of Webberly's financial status, no monetary sanction has been imposed. Webberly also consented to cooperate with FINRA in its continued prosecution of matters related to his FINRA-registered employment, including, but not limited to, matters arising from FINRA's investigation into the activities at his former member firm without the need to resort to NASD Rule 8210 and testifying truthfully at any hearing held in connection with the investigation.

Without admitting or denying the findings, Webberly consented to the described sanctions and to the entry of findings that he made recommendations to public customers to open accounts with his member firm to buy and sell Collateralized Mortgage Obligation (CMO) securities, but each of the customers who opened accounts to invest in CMOs incurred substantial losses. The findings stated that Webberly did "not have reasonable grounds to believe that his recommendations to invest in CMOs were suitable based on the customers' financial situations and needs. The findings also stated that in recommending that customers invest in CMOs, Webberly made misstatements and omitted material facts in connection with the CMO investments. The findings also included that Webberly knew at the time that he opened accounts for his customers that another registered representative would be exercising discretion over the accounts, and failed to obtain written authorization from any of his clients and a firm principal, to authorize him or anyone at the firm to exercise discretion in any of his customer accounts. FINRA found that Webberly was aware that all of his customers had non-discretionary accounts and that he needed to receive authorization from the customers before each and every trade, but delegated the authority to this other individual to (a) select particular CMO investments for his customers; (b) decide how much of the security his customers would buy and when; and (c) decide how much margin borrowing would be utilized to purchase CMOs.

The suspension in any capacity is in effect from June 16, 2008, through June 15, 2010. **(FINRA Case #2006005546001)**

**James Robert Zitch (CRD #819961, Registered Principal, Bryn Mawr, Pennsylvania), Richard Joseph Massaux (CRD #2746156, Registered Representative, Voorhees, New Jersey) and John Jay Parker (CRD #2423679, Registered Representative, Voorhees, New Jersey)** submitted Letters of Acceptance, Waiver and Consent in which Zitch was fined \$25,000 and suspended from association with any FINRA member in any principal capacity for 30 days. The fine must be paid either immediately upon Zitch's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Massaux was fined \$86,014, including disgorgement of \$43,007, and suspended from association with any FINRA member in any capacity for three months. Parker was fined \$106,392, including disgorgement of \$53,196, and suspended from association with any FINRA member in any capacity for three months.

Without admitting or denying the findings, Zitch, Massaux and Parker consented to the described sanctions and to the entry of findings that Massaux and Parker facilitated a hedge fund customer's use of deceptive practices to engage in market timing of mutual fund shares. The findings stated that Massaux and Parker executed trades for the customer through multiple accounts, which used multiple partnership names and traded through multiple registered representative numbers. The findings also stated that these activities allowed the hedge fund customer to avoid detection of its market timing activities by mutual fund companies in many instances, and to circumvent numerous restrictions on additional trading the companies imposed. The findings also included that Zitch failed to adequately supervise Massaux and Parker, and should have known that they were engaged in deceptive market timing practices.

Zitch's suspension in a principal capacity was in effect from June 2, 2008, through July 1, 2008. Massaux' and Parkers' suspensions in any capacity are in effect from May 27, 2008, through August 26, 2008. **(FINRA Cases #2006004542201/2006004542202)**

### Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which the NAC has appealed to or called for review as of May 31, 2008. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions which time for appeal has not yet expired will be reported in the next FINRA *Notices*.

**Robert Thomas Conway (CRD #2329507, Registered Representative, East Islip, New York) and Kakit Ng (CRD #2677132, Registered Representative, Bronx, New York).** Conway was fined \$178,720, which includes \$78,720 in disgorgement, and suspended from association with any FINRA member in any capacity for 18 months. Ng was fined \$20,000 and suspended from association with any FINRA member in any capacity for nine months. The fines shall be due and payable when and if either Conway or Ng seeks to return to the securities industry. The sanctions were based on findings that Conway and Ng engaged in late trading for their hedge fund customers by submitting trades for execution in violation of the SEC forward pricing rule, and engaged in deceptive activity to facilitate their clients' continued market timing after mutual fund companies instructed the clients to stop trading.

This decision has been appealed to the NAC and the sanctions are not in effect pending consideration of the appeals. **(FINRA Case #E102003025201)**

**Paul-Bryan Joel Zenke (CRD #3254506, Registered Representative, Aitkin, Minnesota)** was fined \$5,000, suspended from association with any FINRA member in any capacity for 20 business days and must requalify by exam in all capacities. The sanctions were based on findings that Zenke sold shares of no-load mutual funds to public customers and charged impermissible commissions totaling \$2,790 in connection with the transactions without his member firm's permission.

This decision has been appealed to the NAC and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2006004377701)**



## Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.

**Ronald Edward Hardy Jr. (CRD #2668695, Registered Representative, Port Jefferson Station, New York)** was named as a respondent in a FINRA complaint alleging that he falsified, or caused to be falsified, new account records for public customers to open securities accounts in their names at his member firm, without their knowledge, authorization or consent. The complaint alleges that Hardy executed unauthorized transactions in public customers' accounts. **(FINRA Case #2005001502703)**

**Sanford Lefler (CRD #2783117, Registered Representative, Rockville, Maryland)** was named as a respondent in a FINRA complaint alleging that a public customer directed Lefler to transfer \$60,000 from his bank account to a securities account. The complaint alleges that Lefler altered the signed withdrawal form by crossing out the \$60,000, writing in \$57,226 and placing the customer's initials next to the crossed out amount. The complaint also alleges that Lefler prepared a second withdrawal form for withdrawal of \$2,274 from the customer's bank account, obtained a cashier's check, and used the funds for his personal use without the customer's authorization or consent. The complaint further alleges that Lefler willfully failed to disclose material information on his Form U4. In addition, the complaint alleges that Lefler failed to respond to FINRA requests for testimony and documents. **(FINRA Case #2007011497801)**

**Christopher Dominick O'Connor (CRD #2887894, Registered Supervisor, Hastings, New York)** was named as a respondent in a FINRA complaint alleging that he wrongfully converted funds totaling \$59,590.41 from a public customer's account. The complaint alleges that O'Connor signed another customer's name on a Letter of Authorization (LOA), without the customer's consent, to withdraw \$26,018.63 from a minor's trust account. The complaint also alleges that O'Connor falsified, or caused to be falsified, account records and statements to conceal both the conversion and the withdrawal of funds from the minor's trust account. **(FINRA Case #2007009440101)**

**Firms Suspended for Failure to Supply Financial Information**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Astral Financial Group, LLC**  
Orlando, Florida  
(May 29, 2008)

**Fifth Street Capital, LLC**  
Austin, Texas  
(May 1, 2008 – June 2, 2008)

**IDX Derivatives, LLC**  
New York, New York  
(May 29, 2008 – June 3, 2008)

**Westor Capital Group, Inc.**  
Mohawk, New York  
(May 9, 2008)

**Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to NASD Rule 8320**

(If the revocation has been rescinded, the date follows the revocation date.)

**John F. Helbock**  
Holmdel, New Jersey  
(October 23, 2006 – May 2, 2008)

**John Fitzgerald Tyus**  
Brooklyn, New York  
(May 22, 2008)

**Individuals Barred Pursuant to NASD Rule 9552(h)**

(If the bar has been vacated, the date follows the bar date.)

**David P. Gardner**  
New Rochelle, New York  
(May 5, 2008)

**Eric Martin Garwes**  
Savannah, Georgia  
(May 12, 2008)

**Donald Wayne Griffin**  
Birmingham, Alabama  
(May 5, 2008)

**Milton L. Hagelberger III**  
Sarasota, Florida  
(May 5, 2008)

**Gale Andrew Harvey**  
Mount Juliet, Tennessee  
(May 21, 2008)

**Inderbir Singh Sahn**  
New York, New York  
(May 12, 2008)

**Sean Daniel Scheans**  
Lake Oswego, Oregon  
(May 16, 2008)

**Charita N. Teasley**  
Detroit, Michigan  
(May 16, 2008)

**Fiona Patrice White**  
Willingboro, New Jersey  
(May 19, 2008)

**Individuals Suspended Pursuant to NASD Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Niteen Chandra Bhattacharyya**  
Maple Grove, Minnesota  
(May 5, 2008)

**George Nickos Gounelas**  
Shirley, New York  
(May 29, 2008)

**Moses Raymond Tuckler**  
Elizabeth, New Jersey  
(December 24, 2007 – May 28, 2008)

**John Edward Underwood**  
Jonesboro, Georgia  
(May 19, 2008)

**Individuals Suspended Pursuant to NASD Rule Series 9554 for Failure to Comply with an Arbitration Award or Settlement Agreement**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Jonathan Wayne Barkman**  
Bath, Pennsylvania  
(May 21, 2008)

**Paul Gene Gaydos**  
West Palm Beach, Florida  
(May 14, 2008)

**Joel David Griffin**  
Lubbock, Texas  
(May 29, 2008)

**Robert Byron Kehler**  
Conway, Arkansas  
(May 6, 2008)

**Steven Douglas Klein**  
Lynbrook, New York  
(May 29, 2008)

**James Wright Langston Jr.**  
Metairie, Louisiana  
(February 7, 2005 – May 14, 2008)

**Charlene F. Marant**  
New York, New York  
(May 14, 2008)

**Gene Paul Ramos**  
Jersey City, New Jersey  
(May 8, 2008)

### **GunnAllen Financial Pays \$750,000 to Settle Charges Involving Former Head Trader's Trade Allocation Scheme, AML and Supervisory Deficiencies, Additional Charges Supervisor of Rogue Trader Suspended and Fined; Firm Also Lacked Procedures to Prevent Misuse of Investment Banking Information**

FINRA has fined GunnAllen Financial, Inc., of Tampa, FL \$750,000 for its role in a trade allocation scheme conducted by the firm's former head trader, as well as for various Anti-Money Laundering (AML), reporting, record-keeping and supervisory deficiencies. Kelley McMahon, the former head trader's supervisor, was suspended for six months from association with any FINRA-registered firm in any principal capacity and fined \$25,000, jointly and severally with the firm.

FINRA barred Alexis J. Rivera, the former head trader, in connection with the trade allocation scheme, in December 2006. FINRA found that in 2002 and 2003, the firm, acting through Rivera, engaged in a "cherry picking" scheme in which Rivera allocated profitable stock trades to his wife's personal account instead of to the accounts of firm customers. Rivera garnered improper profits of more than \$270,000 through this misconduct, which violated the anti-fraud provisions of the federal securities laws and FINRA rules. Rivera was barred in December 2006.

"Broker-dealers have an obligation to supervise their registered representatives with a view to preventing them from engaging in conduct that violates fundamental rules, such as the anti-fraud provisions of the federal securities laws," said Susan Merrill, FINRA Executive Vice President and Chief of Enforcement. "The supervisory deficiencies here permitted the firm's trader to perpetrate a scheme that allowed him to benefit at the expense of the firm's customers, and contributed to serious violations in other areas of the firm's business. One such area was the investment banking department, where the firm's failures resulted in an absence of procedures to prevent the misuse of material, non-public information."

In connection with the firm's investment banking business, FINRA found that prior to March 2005, GunnAllen never put any stock of a company on a restricted or watch list even though the firm was conducting investment banking business with these companies. During the same period, GunnAllen failed to inform its own compliance department of the investment banking activities in which the firm was involved.

FINRA also sanctioned GunnAllen for failing to report to FINRA that its parent firm had entered into a consulting contract with an individual who had been previously barred by FINRA. In addition, the firm was sanctioned for failing to preserve e-mails and instant messages, for failing to implement an adequate AML compliance program and for supervisory and complaint reporting deficiencies. Supervisory deficiencies included a failure to ensure that markups and commissions charged on equity transactions were reasonable. In reviewing markups on equity transactions, the firm did little more than ensure that commission charges did not exceed 5 percent. GunnAllen and McMahon settled these matters without admitting or denying the allegations, but consented to the entry of FINRA's findings.

## **FINRA Fines Three Firms a Total of \$1.6 Million for OATS Reporting and Supervision Violations**

The Financial Industry Regulatory Authority (FINRA) has fined TradeStation Securities, Inc., E\*Trade Securities, LLC and CIBC World Markets Corp. a total of \$1.6 million for multi-year violations relating to FINRA's Order Audit Trail System (OATS) rules and related supervisory failures.

Under the OATS rules, firms must report information related to the handling and execution of customer orders, as well as for certain proprietary orders for Nasdaq and OTC Equity securities. This information allows FINRA to recreate the life cycle of an order and is critical to effective regulation.

"Firms must be vigilant in monitoring the accuracy and completeness of the data they provide to regulators and each firm must ensure that it reports all required order information, no matter which desk receives or handles the order," said Tom Gira, Executive Vice President of FINRA's Market Regulation Department.

TradeStation Securities, Inc. was fined \$750,000 for failing to report approximately 23.5 million Reportable Order Events relating to orders received. E\*Trade Securities was fined \$500,000 for failing to report "New Order Reports" and "Route Reports." CIBC was fined \$350,000 for failing to report to OATS over 28 million orders which were generated by an affiliate.

FINRA further found that the three firms did not have adequate systems of supervision in place to monitor their OATS reporting compliance.

The fine for CIBC was reduced in recognition of the firm's actions in reporting the problem to FINRA and taking prompt remedial actions to correct the problem. In settling these matters, the firms neither admitted nor denied the charges, but consented to the entry of FINRA's findings.